

# HOUSE BILL No. 1698

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-50-2-16.

**Synopsis:** Sentence enhancement for feticide. Provides that a person who, while committing a violent crime, causes the death of a child in utero may be sentenced to an additional fixed term of imprisonment that is equal to the advisory sentence for the underlying violent crime.

**Effective:** July 1, 2009.

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**Murphy, Yarde**

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January 16, 2009, read first time and referred to Committee on Judiciary.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1698

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-50-2-16 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2009]: **Sec. 16. (a) As used in this section "child in utero" means**  
4 **a member of the species homo sapiens, at any stage of development,**  
5 **who is carried in the womb.**

6 **(b) As used in this section, "violent crime" means the following:**

7 **(1) A felony described in IC 35-42.**

8 **(2) Consumer product tampering (IC 35-45-8-3).**

9 **(3) Arson (IC 35-43-1-1).**

10 **(4) Burglary (IC 35-43-2-1).**

11 **(5) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).**

12 **(6) Dealing in methamphetamine (IC 35-48-4-1.1).**

13 **(7) Dealing in a schedule I, II, or III controlled substance**  
14 **(IC 35-48-4-2).**

15 **(8) Dealing in a schedule IV controlled substance**  
16 **(IC 35-48-4-3).**

17 **(9) Dealing in a schedule V controlled substance**



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(IC 35-48-4-4).

The term includes a conspiracy or an attempt to commit a crime described in this subsection.

(c) The state may seek, on a page separate from the rest of the charging instrument, to have a person who allegedly committed a violent crime sentenced to an additional fixed term of imprisonment if the state can show beyond a reasonable doubt that the person, while committing a violent crime, caused the death of a child in utero.

(d) If the person is convicted of the violent crime in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.

(e) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proven beyond a reasonable doubt that the person, while committing a violent crime, caused the death of a child in utero, the court shall sentence the person to an additional fixed term of imprisonment equal to the advisory sentence for the underlying felony.

(f) A sentence imposed under this section runs consecutively to the underlying sentence.

(g) A term of imprisonment imposed under this section may not be suspended.

(h) For purposes of this section, prosecution of the violent crime and the enhancement of the penalty for that crime do not require proof that:

(1) the person committing the violent crime had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

(2) the defendant intended to cause the death of, or bodily injury to, the unborn child.

SECTION 2. [EFFECTIVE JULY 1, 2009] IC 35-50-2-16, as added by this act, applies only to a violent crime committed after June 30, 2009.

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